



**DEPARTMENT OF TRANSPORTATION**

**[4910-EX-P]**

**Federal Motor Carrier Safety Administration**

**[Docket No. FMCSA-2011-0165]**

**Parts and Accessories Necessary for Safe Operation; Application for an Exemption from Transecurity LLC (Transecurity)**

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of application for exemption; request for comments.

**SUMMARY:** The Federal Motor Carrier Safety Administration (FMCSA) requests public comment on an application for exemption from Transecurity LLC to allow the placement of an onboard safety monitoring system (OBMS) at the bottom of windshields on commercial motor vehicles (CMVs). The Federal Motor Carrier Safety Regulations (FMCSRs) currently require antennas, transponders, and similar devices to be located not more than 6 inches below the upper edge of the windshield, outside the area swept by the windshield wipers, and outside the driver's sight lines to the road and highway signs and signals. Transecurity is coordinating device development and the installation of camera-based monitoring systems for FMCSA in up to 500 CMVs. The exemption would enable motor carriers to participate in a field operation test to evaluate the system and allow for on-road data collection. Transecurity believes this mounting position would maintain a level of safety that is equivalent to or greater than the level of safety achieved without the exemption.

**DATES:** Comments must be received on or before [Insert 30 days after date of publication in the FEDERAL REGISTER].

**ADDRESSES:** You may submit comments identified by Federal Docket Management System Number FMCSA-2011-0165 by any of the following methods:

- Web Site: <http://www.regulations.gov>. Follow the instructions for submitting comments on the Federal electronic docket site.
- Fax: 1-202-493-2251.
- Mail: Docket Management Facility, U.S. Department of Transportation, Room W12-140, 1200 New Jersey Avenue, SE, Washington, DC 20590-0001.
- Hand Delivery: Ground Floor, Room W12-140, DOT Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m. e.t., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the Agency name and docket number for this notice. For detailed instructions on submitting comments and additional information on the exemption process, see the “Public Participation” heading below.

Note that all comments received will be posted without change to

<http://www.regulations.gov>, including any personal information provided. Please see the “Privacy Act” heading for further information.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov> or to Room W12-140, DOT Building, New Jersey Avenue, SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union,

etc.). You may review DOT's complete Privacy Act Statement in the Federal Register published on April 11, 2000 (65 FR 19476) or you may visit <http://www.regulations.gov>.

Public participation: The <http://www.regulations.gov> Web site is generally available 24 hours each day, 365 days each year. You can get electronic submission and retrieval help and guidelines under the “help” section of the <http://www.regulations.gov> Web site and also at the DOT’s <http://docketsinfo.dot.gov> Web site. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments online.

**FOR FURTHER INFORMATION CONTACT:** Mr. Luke W. Loy, Vehicle and Roadside Operations Division, Office of Bus and Truck Standards and Operations, MC-PSV, (202) 366- 0676, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE, Washington, DC 20590-0001.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

Section 4007 of the Transportation Equity Act for the 21st Century (TEA–21) [Pub. L. 105–178, June 9, 1998, 112 Stat. 107, 401] amended 49 U.S.C. 31315 and 31136(e) to provide authority to grant exemptions from the FMCSRs. On August 20, 2004, FMCSA published a final rule implementing section 4007 (69 FR 51589). Under this rule, FMCSA must publish a notice of each exemption request in the Federal Register (49 CFR 381.315(a)). The Agency must provide the public with an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment

on the request.

The Agency reviews the safety analyses and the public comments and determines whether granting the exemption would likely achieve a level of safety equivalent to or greater than the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the Federal Register (49 CFR 381.315(b)). If the Agency denies the request, it must state the reason for doing so. If the decision is to grant the exemption, the notice must specify the person or class of persons receiving the exemption and the regulatory provision or provisions from which an exemption is granted. The notice must also specify the effective period of the exemption (up to 2 years) and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.315(c) and 49 CFR 381.300(b)).

#### **Transecurity's Application for Exemption**

Transecurity has applied for an exemption from 49 CFR 393.60(e)(1) to allow the installation of the camera-based OBMS at the bottom of the windshield on CMVs. A copy of the application is included in the docket referenced at the beginning of this notice.

Section 393.60(e)(1) of the FMCSRs prohibits the obstruction of the driver's field of view by devices mounted at the top of the windshield. Antennas, transponders and similar devices (devices) must not be mounted more than 152 mm (6 inches) below the upper edge of the windshield. These devices must be located outside the area swept by the windshield wipers and outside the driver's sight lines to the road and highway signs and signals.

Transecurity has applied for the exemption because it wants to install the camera-based OBMS equipment in up to 500 CMVs operating throughout the United States in support of research being conducted on behalf of FMCSA. Transecurity contends that it must be able to mount the camera-based OBMSs lower than allowed under 49 CFR 393.60(e)(1) “because the safety equipment must have a clear forward facing view of the road, and low enough to accurately scan facial features for detection of impaired driving.” Transecurity’s mounting preference for the camera-based OBMS and necessary mounting brackets is at the bottom of the windshield, and is best suited for mounting within and/or below 3 inches of the bottom of the windshield wiper sweep, and out of the driver’s sightlines to the road and highway signs and signals, to the extent practicable.

#### **FMCSA Grant of Waiver to Transecurity**

Pursuant to 49 U.S.C. 31315(a) and 49 CFR part 381, subpart B, the FMCSA granted Transecurity a 90-day waiver on July 23, 2012 to allow the placement of the OBMS at the bottom of windshields on CMVs, outside of the area permitted by § 393.60 of the FMCSRs. This waiver is effective from July 24, 2012, through October 23, 2012. Up to 500 OBMS will be installed, and the affected motor carriers are listed as below:

1. DOT # 90792; Eagle Transport Corporation - Florida.
2. DOT # 252234; Holiday Tours Inc. - Randleman, NC.
3. DOT # 16377; H&W Trucking Co. Inc. - Mt. Airy, NC.
4. DOT # 348258; Associated Grocers - Baton Rouge LA.
5. DOT # 2222676; AM Express Inc. - Escanaba MI.

During the waiver period, these motor carriers participating in the FMCSA research field operation test must ensure that the OBMS is mounted within 3 inches of

the bottom of the driver side windshield wiper sweep, and out of the driver's sightlines to the road and highway signs and signals as much as practicable. Vehicles participating in the study must carry a copy of this waiver in the vehicle.

### **Request for Comments**

In accordance with 49 U.S.C. 31315 and 31136(e), FMCSA requests public comment from all interested persons on Transecurity's application for an exemption from 49 CFR 393.60(e)(1). All comments received before the close of business on the comment closing date indicated at the beginning of this notice will be considered and will be available for examination in the docket at the location listed under the "Addresses" section of this notice. Comments received after the comment closing date will be filed in the public docket and will be considered to the extent practicable. In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should continue to examine the public docket for new material.

**Issued on:** August 16, 2012

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Larry W. Minor  
Associate Administrator for Policy

[FR Doc. 2012-20752 Filed 08/22/2012 at 8:45 am; Publication Date:  
08/23/2012]